REMARKS

Claims 1 - 69 have been canceled by a prior amendment without prejudice or disclaimer of the subject matter thereof.

Claims 81, 97, 106 and 115 have been amended.

Claims 70 – 115 are present in the subject application.

In the Office Action dated July 17, 2007, the Examiner has allowed claims 70 - 96 and 112 - 115, and has rejected claims 97 - 111 under 35 U.S.C. §102(b). Favorable reconsideration of the subject application is respectfully requested in view of the following remarks.

Initially, allowed independent claim 81 has been amended to further define the invention and recites the feature of the at least one medical item including at least one of an intravenous solution bag and bottle. Further, allowed dependent claim 115 has been amended to provide further consistency with its parent claim.

The Examiner has rejected claims 97 - 111 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,923,681 (Cox et al.). Briefly, the present invention is directed towards a surgical warming system including at least one and generally two or more compartments, whereby each compartment is separately heatable and controllable over its own range of temperatures. The compartments may be implemented as separate warmer units in stacked relation. Alternatively, the compartments may be constructed into a single cabinet structure. Each individually controllable compartment enables an operator to simultaneously maintain the individual compartments of the same warming system at different desired temperatures. In addition, the warming system further includes for each compartment a display and a tray or drawer with individual receptacles and corresponding monitoring assemblies in order to indicate the temperature and residence time of each item heated within that compartment.

The Examiner takes the position that the Cox et al. patent discloses the features within these claims.

This rejection is respectfully traversed. However, in order to expedite prosecution of the subject application, independent claims 97 and 106 have been amended. In particular, independent claim 97 has been amended and recites the features of monitoring the temperature and residence time of at least one medical item for compliance with a particular utilization temperature range and a thermal treatment time interval in order to maintain medical item efficacy, wherein the thermal treatment system monitors the temperature and the residence time for the compliance. Further, independent claim 106 has been amended and recites the features of: the at least one medical item including at least one of an intravenous solution bag and bottle; and determining when at least one of insertion and removal of a medical item occurs and indicating this occurrence to a user, wherein the thermal treatment system determines occurrence of and indicates to the user at least one of the insertion and removal of the medical item.

The Cox et al. patent does not disclose, teach or suggest these features. Rather, the Cox et al. patent discloses a high velocity hot air sterilization device. The device includes a housing having a sterilization chamber with a temperature sensor mounted therein, a hot air plenum including a blower in fluid communication with a heating element and the sterilization chamber for inputting hot air into and receiving hot air from the sterilization chamber for recirculation and a control chamber having a temperature sensing circuit, power circuits, a controller and a control panel (e.g., See Abstract). The temperature sensor senses the temperature of the hot air within the sterilization chamber (e.g., See Column 7, lines 11 - 13). The controller includes a timer and display for displaying the measured temperature and time remaining for completion of a selected cycle. The cycle (and hence the timer) is restarted whenever the temperature is below the

required temperature, preferably 375° F (e.g., See Column 5, lines 53 - 65; Column 7, lines 42 - 43; and Column 10, lines 19 - 22). The display shows the time remaining for completion of the selected cycle, where the time is decremented in response to attainment of the operating temperature (e.g., See Column 5, lines 61 - 64 and Column 10, lines 23 - 26).

Thus, the Cox et al. patent discloses a sterilization system that measures the temperature of heated air for sterilization, as opposed to the temperature of a medical item as recited in independent claim 97. Further, the displayed time is relative to the time within a cycle. Since this time is restarted in response to a low temperature measurement during a cycle, while the timer is not decremented until the operating temperature is reached, the displayed time does not provide the actual residence time of an item within the system as recited in claim 97. For example, the displayed time does not account for the time that an item is resident within the system while the system is being heated to attain the desired operating temperature. Moreover, the displayed time is reset during a cycle in response to a low temperature measurement, thereby providing no correlation or point of reference to the time an item is actually residing in the system.

In addition, the Cox et al. patent does not disclose, teach or suggest the system detecting when items are placed within or removed from the system and indicating this occurrence to a user as recited in independent claim 106.

Since the Cox et al. patent does not disclose, teach or suggest, the features recited in independent claims 97 and 106 as discussed above, these claims are considered to be in condition for allowance.

Claims 98 - 105 and 107 - 111 depend, either directly or indirectly, from independent claims 97 and 106, respectively, and, therefore, include all the limitations of their parent claims.

The dependent claims are considered to be in condition for allowance for substantially the same reasons discussed above in relation to their parent claims and for further limitations recited in the dependent claims.

The application, having been shown to overcome issues raised in the Office Action, is considered to be in condition for allowance and a Notice of Allowance is earnestly solicited.

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